104TH CONGRESS 1ST SESSION

H. R. 380

To protect home ownership and equity through enhanced disclosure of the risks associated with certain mortgages, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. Towns introduced the following bill; which was referred to the Committee on Banking and Financial Services

A BILL

To protect home ownership and equity through enhanced disclosure of the risks associated with certain mortgages, and for other purposes.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE.
- 4 This Act may be cited as the "Home Ownership and
- 5 Equity Protection Act of 1995".
- 6 SEC. 2. CONSUMER PROTECTIONS FOR HIGH COST MORT-
- 7 GAGES.
- 8 (a) Definition.—Section 103 of the Truth in Lend-
- 9 ing Act (15 U.S.C. 1602) is amended—

- 1 (1) by inserting after subsection (u) the follow-2 ing new subsection:
- "(v) The term 'high cost mortgage' means a consumer credit transaction, other than a residential mortgage transaction or a transaction under an open-end credit plan, that is secured by a consumer's principal dwelling and that satisfies at least 1 of the following conditions:
 - "(1) The annual percentage rate at the time the loan is originated will exceed by more than 10 percentage points the yield on Treasury securities having comparable maturities, as determined by the Board. In the case of a variable rate loan with an initial interest rate that may be different than the rate or rates that will apply during subsequent periods, the annual percentage rate shall be computed taking into account the subsequent rates.
 - "(2) Based on information provided by the consumer, the consumer's total monthly debt payments will exceed 60 percent of the consumer's monthly gross income, immediately after the loan is consummated. The Board may establish a different debt to income ratio if the Board determines that such a ratio is in the public interest and is consistent with the purposes of this Act.

- 1 "(3) All points and fees payable at or before
- 2 closing will exceed 8 percent of the total loan
- 3 amount."; and
- 4 (2) by redesignating subsections (v), (w), (x),
- 5 (y), and (z) as (w), (x), (y), (z), and (aa), respec-
- 6 tively.
- 7 (b) MATERIAL DISCLOSURES.—Section 103(u) of the
- 8 Truth in Lending Act (15 U.S.C. 1602(u)) is amended
- 9 by striking "and the due dates or periods of payments
- 10 scheduled to repay the indebtedness." and inserting "the
- 11 due dates or periods of payments scheduled to repay the
- 12 indebtedness, and the disclosures for high cost mortgages
- 13 required by paragraphs (1) through (6) of section
- 14 129(a).".
- 15 (c) Definition of Creditor Clarified.—Section
- 16 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f))
- 17 is amended by adding at the end: "Notwithstanding the
- 18 above, any person who originates 2 or more high cost
- 19 mortgages a year, or who originates a high cost mortgage
- 20 through a loan broker, is a creditor for the purposes of
- 21 section 129.".
- 22 (d) Disclosures Required and Certain Terms
- 23 Prohibited.—The Truth in Lending Act (15 U.S.C.
- 24 1601 et seq.) is amended by adding after section 128 the
- 25 following new section:

1 "SEC. 129. REQUIREMENTS FOR HIGH COST MORTGAGES.

- 2 "(a) DISCLOSURES.—In addition to any other disclo-
- 3 sures required under this title, for each high cost mort-
- 4 gage, the creditor shall provide the following written dis-
- 5 closures in clear language and in conspicuous type size
- 6 and format, segregated from other information as a sepa-
- 7 rate document:

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- 6 "(1) The following statement: 'If you obtain 9 this loan, the lender will have a mortgage on your 10 home. You could lose your home, and any money you 11 have put into it, if you do not meet your obligations 12 under the loan.'
 - "(2) The initial annual percentage rate.
 - "(3) The consumer's gross monthly cash income, as reported to the creditor by the consumer, the total initial monthly payment, and the amount of funds that will remain to meet other obligations of the consumer.
 - "(4) In the case of a variable rate loan, a statement that the annual percentage rate and the monthly payment could increase, and the maximum interest rate and payment.
 - "(5) In the case of a variable rate loan with an initial annual percentage rate that is different than the one which would be applied using the contract index after the initial period, a statement of the pe-

- riod of time the initial rate will be in effect, and the rate or rates that will go into effect after the initial period is over, assuming that current interest rates prevail.
- "(6) A statement that the consumer is not required to complete the transaction merely because he or she has received disclosures or signed a loan application.
- 9 "(b) TIME OF DISCLOSURES.—The disclosures re-10 quired by this section shall be given no later than 3 busi-11 ness days prior to consummation of the transaction. A 12 creditor may not change the terms of the loan after pro-13 viding the disclosures required by this section.
- 14 "(c) No Prepayment Penalty.—
- 15 "(1) IN GENERAL.—Except as provided in para-16 graph (4), a high cost mortgage may not contain 17 terms under which a consumer must pay a prepay-18 ment penalty for paying all or part of the principal 19 of a high cost mortgage prior to the date on which 20 such balance is due.
 - "(2) Rebate computation.—For the purposes of this subsection, any method of computing rebates of interest less advantageous to the consumer than the actuarial method using simple interest is deemed a prepayment penalty.

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- 1 "(3) Certain other fees prohibited.—An 2 agreement to refinance a high cost mortgage by the same creditor or an affiliate of the creditor may not 3 require the consumer to pay points, discount fees, or prepaid finance charges on the portion of the loan 5 refinanced. For the purpose of this paragraph, the 6 7 term 'affiliate' has the same meaning as it does in section 2(k) of the Bank Holding Company Act of 8 1956. 9
- 10 "(4) EXCEPTION.—A high cost mortgage may 11 include terms under which a consumer is required to 12 pay not more than 1 month's interest as a penalty 13 if the consumer prepays the full principal of the loan 14 within 90 days of origination.
- "(d) No Balloon Payments.—A high cost mortgage may not include terms under which the aggregate amount of the regular periodic payments would not fully amortize the outstanding principal balance.
- "(e) No Negative Amortization.—A high cost mortgage may not include terms under which the outstanding principal balance will increase over the course of the loan.
- "(f) No Prepaid Payments.—A high cost mortgage may not include terms under which more than 2 periodic payments required under the loan are consolidated and

- 1 paid in advance from the loan proceeds provided to the
- 2 consumer.''.
- 3 (e) Conforming Amendment.—The table of sec-
- 4 tions at the beginning of chapter 2 of the Truth in Lend-
- 5 ing Act is amended by striking the item relating to section
- 6 129 and inserting the following:

"129. Disclosure requirements for high cost mortgages.".

7 SEC. 3. CIVIL LIABILITY.

- 8 (a) Damages.—Section 130(a) of the Truth in Lend-
- 9 ing Act (15 U.S.C. 1640(a)) is amended—
- 10 (1) by striking "and" at the end of paragraph
- 11 (2)(B);
- 12 (2) by striking the period at the end of para-
- graph (3) and inserting "; and"; and
- 14 (3) by inserting after paragraph (3) the follow-
- ing new paragraph:
- 16 "(4) in case of a failure to comply with any re-
- 17 quirement under section 129, all finance charges and
- fees paid by the consumer.".
- 19 (b) STATE ATTORNEY GENERAL ENFORCEMENT.—
- 20 Section 130(e) of the Truth in Lending Act (15 U.S.C.
- 21 1640(e)) is amended by adding at the end the following:
- 22 "An action to enforce a violation of section 129 may also
- 23 be brought by the appropriate State attorney general in
- 24 any appropriate United States district court, or any other

- 1 court of competent jurisdiction, within 5 years from the
- 2 date on which the violation occurs.".
- 3 (c) Assignee Liability.—Section 131 of the Truth
- 4 in Lending Act is amended by adding at the end the fol-
- 5 lowing new subsection:
- 6 "(d) HIGH COST MORTGAGES.—If a creditor fails to
- 7 comply with any of the requirements of section 129 in con-
- 8 nection with any high cost mortgage, any assignee shall
- 9 be subject to all claims and defenses that the consumer
- 10 could assert against the creditor. Recovery under this sub-
- 11 section shall be limited to the total amount paid by the
- 12 consumer in connection with the transaction.".
- 13 SEC. 4. EFFECTIVE DATE.
- This Act shall be effective 60 days after the promul-
- 15 gation of regulations by the Board of Governors of the
- 16 Federal Reserve System, which shall occur not later than
- 17 180 days following the date of enactment of this Act.

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